

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ADAM GAYAR	:	Case NO. 1:17-CV-447
	:	
Plaintiff	:	Judge Susan J. Dlott
	:	
v.	:	ANSWER AND AFFIRMATIVE
	:	DEFENSES OF DEFENDANT
UNIVERSITY OF CINCINNATI	:	UNIVERSITY OF CINCINNATI
COLLEGE OF MEDICINE	:	<u>COLLEGE OF MEDICINE</u>
	:	
Defendant	:	
	:	

Defendant University of Cincinnati College of Medicine (“UC College of Medicine”), by and through counsel, for its answer to Plaintiff’s complaint, states as follows:

1. UC College of Medicine admits the allegations in paragraph 1, but denies it violated Plaintiff’s rights or discriminated against him in any way.
2. UC College of Medicine admits the allegations in paragraph 2, but denies it violated Plaintiff’s rights or discriminated against him in any way.
3. UC College of Medicine admits the allegations in paragraph 3.
4. UC College of Medicine admits the allegations in paragraph 4.
5. UC College of Medicine admits the allegations in the first sentence in paragraph 5. UC College of Medicine denies the remaining allegations in paragraph 5.
6. UC College of Medicine admits the allegations in paragraph 6.
7. UC College of Medicine admits the allegations in paragraph 7.

8. UC College of Medicine admits the allegations in paragraph 8.
9. UC College of Medicine admits the allegations in the first sentence in paragraph 9. UC denies the remaining allegations in paragraph 9.
10. UC College of Medicine admits the allegations in paragraph 10.
11. UC College of Medicine admits the allegations in paragraph 11.
12. UC College of Medicine lacks knowledge or information sufficient to form a belief about the truth of the allegations in the second and third sentences in paragraph 12. UC College of Medicine admits the remaining allegations in paragraph 12.
13. UC College of Medicine admits the allegations in paragraph 13.
14. UC College of Medicine admits the allegations in paragraph 14.
15. UC College of Medicine admits the allegations in paragraph 15.
16. UC College of Medicine admits the allegations in paragraph 16.
17. UC College of Medicine admits the allegations in paragraph 17.
18. UC College of Medicine admits the allegations in paragraph 18.
19. UC College of Medicine admits the allegations in paragraph 19.
20. UC College of Medicine denies the Appeals Board met on April 17, 2017. UC College of Medicine admits the remaining allegations in paragraph 20.

21. UC College of Medicine admits the Appeals Board agreed with the PAC recommendation for dismissal for Plaintiff's inability to pass a number of his courses and that the diagnosis of attention deficit disorder was not available to the PAC. UC College of Medicine denies the remaining allegations in paragraph 21.

22. UC College of Medicine admits the Dean of the College of Medicine issued a written letter to Plaintiff on April 28, 2017, and that the letter did not include the allegations in the last sentence in paragraph 22.

23. UC College of Medicine admits the allegations in paragraph 23.

24. UC College of Medicine admits the allegations in paragraph 24.

25. UC College of Medicine admits the allegations in paragraph 25.

26. UC College of Medicine denies the allegations in paragraph 26.

27. UC College of Medicine denies the allegations in paragraph 27.

28. UC College of Medicine incorporates its responses to paragraphs 1-27 in response to paragraph 28.

29. UC College of Medicine denies the allegations in paragraph 29.

30. UC College of Medicine incorporates its responses to paragraphs 1-29 in response to paragraph 30.

31. UC College of Medicine denies the allegations in paragraph 31.

32. UC College of Medicine denies the allegations in the WHEREFORE paragraph and denies that Plaintiff is entitled to the relief requested.

33. UC College of Medicine denies each and every allegation not specifically admitted herein.

FIRST AFFIRMATIVE DEFENSE

1. UC College of Medicine did not discriminate against Plaintiff at any time, and its actions were reasonable, made in good faith, and based solely on legitimate reasons.

SECOND AFFIRMATIVE DEFENSE

2. Any alleged discriminatory actions were contrary to UC College of Medicine's good faith efforts to comply with all federal and state non-discrimination laws.

THIRD AFFIRMATIVE DEFENSE

3. Even if UC College of Medicine had considered Plaintiff's alleged disability in making the decisions of which Plaintiff complains, which it did not, it would have made the same decisions regarding Plaintiff.

FOURTH AFFIRMATIVE DEFENSE

4. Plaintiff has failed to mitigate his alleged damages.

FIFTH AFFIRMATIVE DEFENSE

5. UC College of Medicine reserves the right to add any defenses learned as a result of discovery.

WHEREFORE, UC College of Medicine respectfully requests that the claims against it be dismissed and that it be awarded its costs and any related relief as this Court may deem proper.

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Respectfully submitted,

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Attorney General of Ohio

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Trial Attorney for Defendant
University of Cincinnati
College of Medicine

CERTIFICATE OF SERVICE

I certify that on August 23, 2017, I electronically filed the Answer and Affirmative Defenses of Defendant University of Cincinnati College of Medicine with the Clerk of Courts via the CM/ECF system, which will provide notice to:

Marc D. Mezibov
Brian J. Butler
615 Elsinore Place
Cincinnati, Ohio 45202

s/Doreen Canton